



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

NORTHERN REGIONAL OFFICE
13901 Crown Court, Woodbridge, Virginia 22193
(703)583-3800
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Matthew J. Strickler
Secretary of Natural Resources

David K. Paylor
Director
(804) 698-4000

Thomas A. Faha
Regional Director

**STATE WATER CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
Super Concrete Co., Inc.
FOR
Super Concrete Co., Inc.
Unpermitted Activity
VPDES Permit No. VAG11
Registration No. VAG110373**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 62.1-44.15, between the State Water Control Board and Super Concrete Co., Inc., regarding the Super Concrete Co., Inc. facility for the purpose of resolving certain violations of the State Water Control Law and the applicable permit and regulation.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "305(b) report" means the report required by Section 305(b) of the Clean Water Act (33 United States Code § 1315(b)), and Va. Code § 62.1-44.19:5 for providing Congress and the public an accurate and comprehensive assessment of the quality of State surface waters.
2. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and 62.1-44.7.

3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
5. "Discharge" means discharge of a pollutant. 9 VAC 25-31-10.
6. "Discharge of a pollutant" when used with reference to the requirements of the VPDES permit program means:
 - (a) Any addition of any pollutant or combination of pollutants to surface waters from any point source; or
 - (b) Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.
7. "Facility" or "Plant" means the Super Concrete Co., Inc. concrete manufacturing facility, located at 9207 Venture Court in Manassas Park City, Virginia, owned and operated by Super Concrete Co., Inc.
8. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
9. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.
10. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the State Water Control Law.
11. "Permit" means VPDES Permit No. VAG11, the VPDES General Permit for Concrete Products Facilities, which was issued under the State Water Control Law and the Regulation on January 1, 2019 and which expires on December 31, 2023.
12. "Pollutant" means any substance, radioactive material, or heat which causes or contributes to, or may cause or contribute to pollution. 9 VAC 25-210-10.
13. "Pollution" means such alteration of the physical, chemical, or biological properties of any state waters as will or is likely to create a nuisance or render such waters (a) harmful or detrimental or injurious to the public health, safety, or welfare or to the health of animals, fish, or aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (c) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses, provided that (i) an alteration of the physical, chemical, or biological property of state waters or a discharge or deposit of sewage, industrial wastes or other wastes to state waters by any owner

which by itself is not sufficient to cause pollution but which, in combination with such alteration of or discharge or deposit to state waters by other owners, is sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into state waters; and (iii) contributing to the contravention of standards of water quality duly established by the Board, are “pollution.” Va. Code § 62.1-44.3; 9 VAC 25-210-10.

14. “Regulation” means the VPDES Permit Regulation, 9 VAC 25-31-10 *et seq.*
15. “State Water Control Law” means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code.
16. “State waters” means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands. Va. Code § 62.1-44.3.
17. “Super Concrete” means Super Concrete Co., Inc., a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Super Concrete is a “person” within the meaning of Va. Code § 62.1-44.3.
18. “Va. Code” means the Code of Virginia (1950), as amended.
19. “VAC” means the Virginia Administrative Code.
20. “VPDES” means Virginia Pollutant Discharge Elimination System.

SECTION C: Findings of Fact and Conclusions of Law

1. Super Concrete owns and operates the Facility and owns the real estate that houses the Facility. The Facility currently operates as a ready-mix concrete plant, and began operating as such about 2 years ago. Commercial/industrial operations at the Facility began approximately 10 years ago, starting much smaller in nature and evolving over time.
2. On November 7, 2019, Super Concrete contacted DEQ to inquire if any environmental permits are required for its operation. Manassas Park City required Super Concrete to contact DEQ based on Super Concrete plans to expand operations at the Facility, including onto an adjacent property that Super Concrete has acquired.
3. On November 13, 2019, DEQ staff performed an inspection of the Facility in follow-up to Super Concrete’s November 7, 2019 phone call.

DEQ staff observed activities onsite that were consistent with a ready-mix concrete facility (a concrete truck washout area, concrete trucks, equipment, and raw materials and product storage) that had the potential to discharge to state waters.

4. DEQ staff reviewed records and determined that Super Concrete did not have a permit to discharge process wastewater and/or comingled stormwater associated with industrial activity from the Facility.
5. Va. Code § 62.1-44.5 states that: “[E]xcept in compliance with a certificate issued by the Board, it shall be unlawful for any person to discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances.”

The Regulation, at 9 VAC 25-31-50, also states that except in compliance with a VPDES permit, or another permit issued by the Board, it is unlawful to discharge into state waters sewage, industrial wastes or other wastes.

6. On December 20, 2020, DEQ received a registration statement from Super Concrete (dated December 16, 2020) to apply for coverage under VPDES Permit No. VAG11, the VPDES General Permit for Concrete Products Facilities.
7. On January 6, 2020, DEQ issued Notice of Violation (NOV) No. W2019-12-N-0002 to Super Concrete based on Super Concrete not having a permit as necessitated by its current operations at the Facility.
8. On February 3, 2020, Super Concrete submitted a written response to the NOV, and on February 4, 2020, DEQ staff met with representatives of Super Concrete to discuss the NOV, Super Concrete’s response, and enforcement proceedings.
9. On February 4, 2020, DEQ granted Super Concrete Coverage under the Permit, issuing Super Concrete Registration No. VAG110373. Super Concrete applied for and was granted coverage under the Permit as a no-discharge facility. Permit compliance requirements, including the expectations to maintain compliance with no stormwater discharges, were discussed with Super Concrete during the meeting with DEQ on February 4, 2020.
10. The unnamed tributary (UT) of Bull Run is the surface water that would receive, if applicable, any discharges from the Facility. As a no-discharge facility under the Permit, Super Concrete is not authorized to discharge any process wastewater or stormwater associated with industrial activity from the Facility to the UT of Bull Run.
11. Based on DEQ’s 2018 305(b) report, the UT of Bull Run has been neither monitored nor assessed. Bull Run is located approximately one mile downstream from the Facility. Bull Run is impaired for the aquatic life use based on benthic macroinvertebrate bioassessment (included in the Bull Run Sediment TMDL), and is impaired for the fish consumption use due to PCBs in fish tissue.
12. Va. Code § 62.1-44.15(5a) states that a VPDES permit is a “certificate” under the statute.
13. The Department has issued no permits or certificates to Super Concrete for the Facility other than VPDES Permit Registration No. VAG110373.

14. The UT of Bull Run is a surface water located wholly within the Commonwealth and is a "state water" under State Water Control Law.
15. Based on the information provided to DEQ by Super Concrete on the November 7, 2019 phone call, DEQ observations during the November 13, 2019 inspection, the December 16, 2019 permit registration statement submitted by Super Concrete, Super Concrete's written NOV response dated February 3, 2020, and the February 4, 2020 meeting and related correspondence between DEQ and representatives of Super Concrete, the Board concludes that Super Concrete has violated 9 VAC 25-31-50, as described above in paragraphs C(1) through C(14).
16. In order for Super Concrete to complete its return to compliance, DEQ staff and representatives of Super Concrete have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, the Board orders Super Concrete, and Super Concrete agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of **\$7,750** within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Super Concrete shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, Super Concrete shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Super Concrete for good cause shown by Super Concrete, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order and in NOV No. W2019-12-N-0002 dated January 6, 2020. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Super Concrete admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Super Concrete consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Super Concrete declares it has received fair and due process under the Administrative Process Act and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Super Concrete to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Super Concrete shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Super Concrete shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Super Concrete shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay

compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

- a. the reasons for the delay or noncompliance;
- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

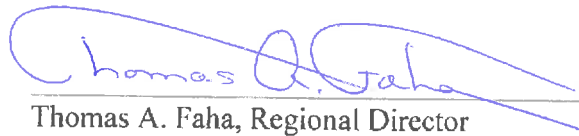
9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Super Concrete. Nevertheless, Super Concrete agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. The Director or his designee terminates the Order after Super Concrete has completed all of the requirements of the Order;
 - b. Super Concrete petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Super Concrete.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Super Concrete from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Super Concrete and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.

13. The undersigned representative of Super Concrete certifies that he or she is a responsible official or officer authorized to enter into the terms and conditions of this Order and to execute and legally bind Super Concrete to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Super Concrete.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, Super Concrete voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 21st day of September, 2020.



Thomas A. Faha, Regional Director
Department of Environmental Quality

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Consent Order

Super Concrete Co., Inc.; Unpermitted Activity, VPDES Permit Registration No. VAG110373

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Super Concrete Co., Inc. voluntarily agrees to the issuance of this Order.

Date: 7-13-2020 By: *Amandio P. Mora*, President
(Person) (Title)
Super Concrete Co., Inc.

Commonwealth of Virginia

City/County of Manassas Park

The foregoing document was signed and acknowledged before me this 13 day of
July, 2020, by Amandio P. Mora who is
President of Super Concrete Co., Inc., on behalf of the corporation.

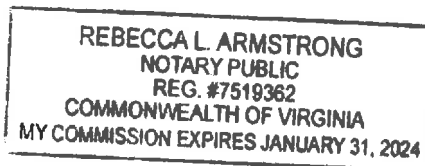
Rebecca Armstrong
Notary Public

7519362

Registration No.

My commission expires: 1-31-24

Notary seal:



APPENDIX A

SCHEDULE OF COMPLIANCE

Super Concrete Co., Inc. shall:

1. Within 120 days of the effective date of this Order, provide to DEQ a written status update submission, inclusive of photo-documentation, demonstrating that Super Concrete is not discharging any process wastewater or stormwater associated with industrial activities from the Facility, as specified in Part I.A of the Permit.
2. Unless otherwise specified in this Order, Super Concrete shall submit all requirements of Appendix A of this Order to:

Virginia Department of Environmental Quality
Northern Regional Office
Attention: Enforcement
13901 Crown Court
Woodbridge, VA 22193